

(7)

VINSON & ELKINS
ATTORNEYS AT LAW

3300 FIRST CITY TOWER
1001 FANNIN

HOUSTON, TEXAS 77002-6760
TELEPHONE 713 651-2222 TELEX 762146

THE WILLARD OFFICE BUILDING
1455 PENNSYLVANIA AVE. N.W.
WASHINGTON, D.C. 20004-1007
TELEPHONE 202 639-6500 TELEX 89680

FIRST CITY CENTRE
816 CONGRESS AVENUE
AUSTIN, TEXAS 78701-2496
TELEPHONE 512 495-8400

47 CHARLES ST., BERKELEY SQUARE
LONDON W1X 7PB, ENGLAND
TELEPHONE 01 441 491-7236
CABLE VINELKINS LONDON W1-TELEX 24140

INTERSTATE COMMERCE COMMISSION

2020 LTV CENTER
2001 ROSS AVENUE
DALLAS, TEXAS 75201-2916
TELEPHONE 214 979-6600

December 27, 1988 DEC 27 1988 3-50 PM

Recordation No. 6869 6869-1425

Dear Ms. McGee:

\$13.00 filing fee

On behalf of Union Pacific Railroad Company, I submit for filing and recording under 49 U.S.C. Section 11303(a) and the regulations promulgated thereunder, two enclosed executed counterparts of a secondary document, not previously recorded, entitled First Amendment to Lease of Railroad Equipment, dated as of January 1, 1989. The aforesaid document relates to that certain Lease of Railroad Equipment, dated January 10, 1973, recorded with the Interstate Commerce Commission under Recordation No. 6869 on January 22, 1973 and should be filed under the next available letter designation under Recordation No. 6869 which we believe will be -E.

This one is 6869-E

The Lessor is:

Platte River Associates
1220 Market Building
Suite 700
P.O. Box 198
Wilmington, Delaware 19899

8-362A062

No. DEC 27 1988

Date 13.00

Fee 13.00

ICC Washington, D.C.

The Lessee is:

Union Pacific Railroad Company
1416 Dodge Street
Omaha, Nebraska 68179

Dec 27 9 45 PM '88
100 OFFICE OF THE CLERK
MOTOR OPERATING UNIT

The present document amends the aforesaid Lease of Railroad Equipment insofar as it relates to twenty (20) locomotives.

The units of equipment covered by the Assignment are the twenty (20) locomotives identified on Exhibit A to the present document, a copy of which is attached hereto.

A short summary of the document to appear in the ICC Index is as follows:

C. Stanley and A. W. Fannin

"Amends Lease as to 20 locomotives."

Enclosed is a check in the amount of thirteen dollars (\$13) in payment of the filing fee.

Once the filing has been made, please return to bearer the stamped counterpart of the document not required for filing purposes, together with the fee receipt, the letter from the ICC acknowledging the filing, and the two extra copies of this transmittal letter.

Very truly yours,



Philip M. Kinkaid
Representative in fact for the
sole purpose of this filing
for Union Pacific Railroad
Company

Honorable Noreta R. McGee
Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Enclosures

BY HAND

a:tranaml.1tr

Exhibit B

Union Pacific

IDENTIFICATION OF UNITS

Twenty (20) 2000 H.P. EMD Model GP-38-2 Locomotives

Unit #

MP2074
MP2075
MP2076
MP2077
MP2078
MP2079
MP2080
MP2081
MP2082
MP2083
MP2084
MP2085
MP2086
MP2087
MP2088
MP2089
MP2090
MP2091
MP2092
MP2093

DEC 27 1988 3:50 PM
6862 FFirst Amendment to
Lease of Railroad Equipment

C.D.No. 54792-23

REGISTRATION NO. 6862 F

This First Amendment to Lease of Railroad Equipment (the "Lease Amendment") is made, effective as of the 1st day of January, 1989, between the Union Pacific Railroad Company, a Utah corporation (hereinafter the "Lessee") and Platte River Associates (hereinafter the "Lessor").

WHEREAS the Missouri Pacific Railroad Company, as lessee, and The First National Leasing Company, as lessor, entered into a Lease of Railroad Equipment dated as of January 10, 1973, (the "Lease"), which is attached hereto as Exhibit A and made a part hereof as though set forth in full, except as modified herein, and

WHEREAS TXL Astra Corporation VI succeeded to the interest of The First National Leasing Company under the Lease, and

WHEREAS Platte River Associates has succeeded to the interest of TXL Astra Corporation VI under the Lease, and

WHEREAS Platte River Associates has consented to Missouri Pacific Railroad Company's assignment to Union Pacific Railroad Company of all of its right, title and interest under the Lease as to twenty of the thirty-seven GP-38-2 locomotives, and

WHEREAS §13 of the Lease provides for one 5 year renewal term, and the Lessee desires to adopt and renew the Lease as to the said twenty GP-38-2 locomotives with the following modifications to the original Lease terms,

THEREFORE, in consideration of the premises hereof and of the rentals to be paid and the covenants hereinafter set forth, it is agreed that the terms of the Lease are hereby adopted and renewed in accordance with §13 of the Lease and shall continue in full force and effect with respect to the said twenty GP-38-2 locomotives as though such Lease had been set forth in full in this Lease Amendment except as set forth in the following amendments and modifications:

1. Section 3 (Rentals) shall be amended to read as follows:


The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease the amount of \$165.00 per day per Unit, which is \$15,065.25 each quarter per Unit, payable in arrears, through the balance of the term set forth in this Lease Amendment, commencing on March 30, 1989, and continuing thereafter in 20 equal quarter-annual installments on June 30, September 30 and December 30 and March 30 in each year, through December 30, 1993. Each "Unit" shall be defined as one of the twenty (20) GP-38-2 locomotives with the identifying road number or such other identifying mark as may be upon the locomotive, as set forth on the attached Exhibit B, and shall not include seven U-23-B locomotives subject to the original Lease.

The Lessor instructs the Lessee to make, and the Lessee agrees to make, all payments provided for herein in immediately available funds (including but not limited to the payments required under §7 hereof) for the account of Lessor, c/o Meritor Bank, 1234 Market Street, Philadelphia, Pennsylvania 19107, or as otherwise directed in writing by Lessor, on or before 11 o'clock a.m. Philadelphia time on the date upon which payments are due and payable.

DEC 27 1988
OFFICE OF THE
ATTORNEY GENERAL

The Lease, as amended by the Lease Amendment, is a net obligation of Lessee and the Lessee shall not be entitled to any abatement of rent, reduction thereof or set off against rent, including but not limited to abatements, reductions or set offs due or alleged to be due by reason of any past, present or future claim of the Lessee against the Lessor under the Lease or this Lease Amendment, including any of the Lessee's rights of subrogation hereunder; nor, except as otherwise expressly provided herein, shall the Lease or this Lease Amendment terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession, or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances, or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease Amendment or the Lease, any insolvency, bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of the Lease or this Lease Amendment. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms of the Lease and this Lease Amendment. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

2. Section 4 (Term of Lease) is amended to read as follows:

The term of the Lease as to each Unit shall begin on January 1, 1989, and subject to the provisions of §7 of the Lease, as herein amended, and §§10 and 13 of the Lease, shall terminate on the date on which the final quarter-annual payment of rent in respect thereof is due, namely December 30, 1993. 

3. Section 5 (Identification Marks) is amended to read as follows:

The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the name of the Lessor or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's title to and property in such Unit and the rights of the Lessor under this Lease. The Lessee will replace promptly any such name and words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease shall have been filed, recorded and deposited.

4. Section 7 (Payment for Casualty Occurrences, Insurance) is amended to read as follows:

In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Lessor or the Lessee, irreparably damaged from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences hereinafter called Casualty Occurrences) during the term of the Lease, as amended, the Lessee shall promptly and fully notify the Lessor with respect thereto. Upon a Casualty Occurrence with respect to any Unit, the Lessee shall, within 45 days after it shall have determined that such Casualty Occurrence has occurred, replace such Unit with another of equivalent value, utility and condition. If the Lessee is unable, after reasonable efforts, to replace such Unit, then on the rental payment date next succeeding notice of the Casualty Occurrence or the expiration of said 45 day period, whichever is later, Lessee shall pay to Lessor the rental payment due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any unit, the rental for such Unit shall cease to accrue, the term of this Lease Amendment and the Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit.

<u>Rental Payment Date</u>	<u>Casualty Value</u>
30-Mar-89	242,500
30-June-89	235,000
30-Sep-89	227,500
30-Dec-89	220,000
30-Mar-90	212,500
30-Jun-90	205,000
30-Sep-90	197,500
30-Dec-90	190,000
30-Mar-91	182,500
30-Jun-91	175,000
30-Sep-91	167,500
30-Dec-91	160,000
30-Mar-92	152,500
30-Jun-92	145,000
30-Sep-92	137,500
30-Dec-92	130,000
30-Mar-93	122,500
30-Jun-93	115,000
30-Sep-93	107,500
30-Dec-93	100,000

Except as hereinabove in this \$7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of any Casualty Occurrence to any Unit.

The Lessee will, at all times while the Lease and this Lease Amendment are in effect, at its own expense cause to be carried and maintained insurance in respect of the Units at the time subject hereto, and public liability insurance in amounts and against risks customarily insured against by railroad companies on similar equipment, and in any event in amounts and against risks comparable to those insured against by the Lessee on equipment owned by it, and the benefits thereof shall be payable as directed by Lessor. Any net insurance proceeds as a result of insurance carried by the Lessee received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by Lessee to Lessor in respect of a Casualty Occurrence pursuant to this §7. If the Lessor shall receive any such net insurance proceeds or condemnation payments after Lessee has made payments pursuant to this §7 without deduction for such net insurance proceeds or such condemnation payments, the Lessor shall pay such proceeds to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds shall remain the property of the Lessor. The Lessee may self-insure all or any part of the insurance described above.

5. Section 9 (Maintenance), Section 11 (Return of Units Upon Default) and Section 14 (Return of Units Upon Expiration of Term) remain as set forth in the Lease; however, the following provisions regarding maintenance are added to and made a part of §§9, 11 and 14 of the Lease:

During the term of the Lease, as amended, the Lessee shall maintain the Units in accordance with Original Equipment Manufacturers ("OEM") standards or in accordance with Federal Railroad Administration interchange conditions. The parties may amend maintenance standards upon mutual agreement in writing during the term hereof. Notwithstanding any other rights of Lessee hereunder, Lessor, upon reasonable notice to Lessee, may inspect any or all Units to ascertain compliance by Lessee with the maintenance standards herein, and upon reasonable notice, Lessor shall have access to all of Lessee's maintenance records for the Units throughout the term of the Lease, as amended. Lessor and Lessee will jointly inspect the Units prior to the end of the term of the Lease, as amended, and before returning the Units to Lessor, Lessee shall load test such Unit, and shall provide records of such tests, to demonstrate that each Unit is capable of producing rated horsepower for a minimum of one hour with all ancillary systems in place and properly functioning.

6. The first paragraph of Section 13 (Purchase and Renewal Options) is amended to read as follows:

Provided (1) that this Lease has not been earlier terminated, (2) that the Lessee is not in default hereunder and (3) that Missouri Pacific Railroad Company has elected to exercise its option to purchase, with respect to the other seventeen (17) GP-38-2 locomotives originally leased hereunder, the Lessee may by written notice delivered to the Lessor not less than six months prior to the end of the original term of this Lease or any extended term hereof as the case may be elect to purchase all, but not fewer than all, the Units covered by this Lease at the end of the original or any extended term of this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of such term.

U.S. DEPT. OF
COMMERCE
RECEIVED

7. Section 15 (Opinion of Counsel) is amended to read as follows:

Upon the date of execution of this Lease Amendment, Lessee will deliver to Lessor a written opinion of counsel for the Lessee, addressed to Lessor, in scope and substance satisfactory to Lessor and its counsel, to the effect that:

A. Lessee is a corporation, legally incorporated, validly existing and in good standing under the laws of Delaware, with adequate corporate power to enter into this Lease Amendment,

B. the Lease is in full force and effect and that no Event of Default as defined therein has occurred,

C. this Lease Amendment has been duly authorized, executed and delivered by Lessee and constitutes a valid, legal and binding agreement of Lessee, enforceable in accordance with its terms,

D. no approval is required from any public regulatory body with respect to the entering into this Lease Amendment or the performance of the Lease or the Lease Amendment,

E. the entering into and performance of the Lease or this Lease Amendment will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan, or credit agreement or other agreement or instrument to which Lessee is a party or by which it may be bound, and

F. no mortgage, deed of trust, or other lien of any nature whatsoever, except the Lease, which now covers or affects, or which may hereinafter cover or affect, any property or interests therein of Lessee now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Lessor's right, title, and interest therein.

8. Section 19 (Notices) is amended to read as follows:

Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mail, first class postage prepaid, or sent by express courier with a receipt, or sent by telecopy with a copy to follow by express courier, as follows:

(a) if to the Lessor, to Platte River Associates, Suite 700, 1220 Market Building, P.O. Box 198, Wilmington, Delaware 19899, Attn: Legal.

(b) if to the Lessee, to Union Pacific Railroad Company, 1416 Dodge Street, Omaha, Nebraska 68179, Attn: Director, Purchasing Mechanical.

or addressed to either party at such other address as such party shall hereafter furnish to the other in writing.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

PLATTE RIVER ASSOCIATES

By: John M. Chase

Witness:

Salme Grestach

UNION PACIFIC RAILROAD COMPANY

By: Michael Walsh

Witness:

J. L. [Signature]

STATE OF

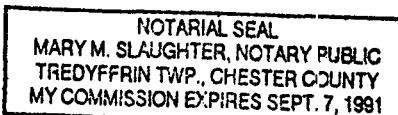
CITY OF

On this 9th day of November, 1988, before me appeared John M. Ruse, to me personally known, who being by me duly sworn, did say that he is the authorized agent of Platte River Associates, a partnership, and that said instrument was signed on behalf of said partnership by authority of said partnership.

IN WITNESS WHEREOF I have affixed my hand and seal in the city and state as aforesaid, on the day and year first above stated.

Mary M. Slaughter
Notary Public

[Notarial Seal]



Member, Pennsylvania Association of Notaries

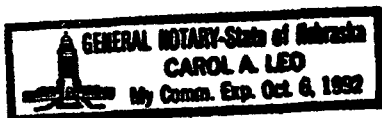
My Commission Expires 9-7-91.

STATE OF

SS.:

CITY OF

On this 22nd day of December 1988, before me personally appeared Michael J. Wolski to me personally known, who, being by me duly sworn, says that he is a ~~Vice President~~ Chairman of Union Pacific Railroad Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Carol A. Leo
Notary Public

[Notarial Seal]

My Commission Expires October 6, 1992.

[CONFORMED COPY]

LEASE OF RAILROAD EQUIPMENT

Dated as of January 10, 1973

between

MISSOURI PACIFIC RAILROAD COMPANY,
Lessee

and

THE FIRST NATIONAL LEASING COMPANY,
Lessor

Filed and recorded with the Interstate Commerce Commission pursuant to
Section 20c of the Interstate Commerce Act on January 22, 1973, at 10:30 A.M.,
Recordation No. 6869.

Exhibit A

LEASE OF RAILROAD EQUIPMENT dated as of January 10, 1973, between MISSOURI PACIFIC RAILROAD COMPANY, a Missouri corporation hereinafter called the Lessee), and THE FIRST NATIONAL LEASING COMPANY, a partnership (hereinafter called the Lessor).

WHEREAS, the Lessor and the Lessee have entered into two Conditional Sales Agreements dated as of the date hereof (hereinafter called the Security Documents), with GENERAL MOTORS CORPORATION (Electro-Motive Division) and GENERAL ELECTRIC COMPANY, respectively (hereinafter called the Builders), wherein the Builders have agreed to manufacture, sell and deliver to the Lessor the railroad equipment described in Schedule A hereto;

WHEREAS, the Builders have assigned or will assign their respective interests in the Security Documents to UNITED STATES TRUST COMPANY OF NEW YORK, as Agent (hereinafter, together with its successors and assigns, referred to as the Vendor); and

WHEREAS, the lessee desires to lease all the units of said equipment, or such lesser number (hereinafter called the Units) as are delivered and accepted and settled for under the Security Documents on or prior to June 20, 1973 (hereinafter called the Cut-Off Date), at the rentals and for the terms and upon the conditions hereinafter provided;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but, upon default of the Lessee hereunder or under the Security Documents, subject to all the rights and remedies of the Vendor under the Security Documents:

§ 1. *Incorporation of Model Provisions.* Whenever this Lease incorporates herein by reference, in whole or in part or as hereby amended, any provision of the document entitled "Model Lease Provisions" annexed to the Security Documents as Part II of Annex C thereto (hereinafter called the Model Lease Provisions), such provision of the Model Lease Provisions shall be deemed to be a part of this instrument as fully to all intents and purposes as though such provision had been set forth in full in this Lease.

§ 2. *Delivery and Acceptance of Units.* § 2 of the Model Lease Provisions is herein incorporated as § 2 hereof.

§ 3. *Rentals.* The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease (i) for the period from the Closing Date (as defined in Article 4 of the Security Document pursuant to which such Unit is being acquired by Lessor) for such Unit to June 30, 1973, an amount equal to .0142278% of the Purchase Price (as defined in the Security Document pursuant to which such Unit is being acquired by Lessor) of each Unit for each day elapsed from the Closing Date for settlement of such Unit to and including June 29, 1973 due and payable on June 30, 1973, and (ii) through the balance of the lease term remaining after the period described in (i) above, payable in arrears in 62 equal quarter-annual instalments on September 30, December 30, March 30 and June 30 in each year commencing with September 30, 1973, an amount equal to 2.08500% of the Purchase Price of each such Unit.

The Lessor irrevocably instructs the Lessee to make, and the Lessee agrees to make, all the payments provided for in this Lease in immediately available funds (including but not limited to the payments required under § 7 hereof) for the account of the Lessor, c/o United States Trust Company of New York, 130 John Street, New York, N. Y. 10038 on or before 11 o'clock a. m. New York City time on the date upon which payments are due and payable. Such payments shall be applied by the Vendor to satisfy the obligations of the Lessor under the Security Documents due and payable on the date such payments are due hereunder and, so long as no event of default under the Security Documents shall have occurred and be continuing, any balance shall be paid to the Lessor.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or under the Security Documents, including the Lessee's rights by subrogation under Article 8 thereof, or the Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of

RECEIVED
JUL 10 1973
NEW YORK

del Lease

l for each
Date (as
ch Unit is
unt equal
Document
Unit for
nit to and
) through
ed in (1)
ments on
ear com-
7 of the

ne Lessee
mediately
red under
C any
before 11
is are due
atisfy the
ayable on
event of
e contin-

ed to any
g, but not
e due by
he Lessor
Lessee's
e Vendor
shall this
Lessee be
r loss of

possession or loss of use or destruction of all or any of the Units from whatsoever cause; any liens, encumbrances or rights of others with respect to any of the Units; the prohibition of or other restriction against the Lessee's use of all or any of the Units; the interference with such use by any person or entity; the invalidity or unenforceability or lack of due authorization of this Lease; any insolvency, bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing; any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

§ 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of §§ 7, 10 and 13 hereof, shall terminate on the date on which the final quarter-annual payment of rent in respect thereof is due pursuant to § 3.

Notwithstanding anything to the contrary contained herein, all rights and obligations under this Lease and in and to the Units, upon default by the Lessee hereunder, or under the Security Documents in its capacity as Guarantor or otherwise, are subject to the rights of the Vendor under the Security Documents. If an event of default should occur under the Security Documents, the Vendor may terminate this Lease (or rescind its termination), all as provided therein, unless the Lessee is not so in default under this Lease or under the Security Documents.

§ 5. Identification Marks. § 5 of the Model Lease Provisions is herein incorporated as § 5 hereof.

§ 6. *Taxes.* § 6 of the Model Lease Provisions is herein incorporated as § 6 hereof.

§ 7. *Payment for Casualty Occurrences; Insurance.* In the event that a Unit shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Lessor or the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences) during the term of this Lease, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next succeeding such notice, the Lessee shall pay to the Lessor the rental payment due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit.

incorporated as

The Casualty Value of each Unit as of any rental payment date shall be that percentage of the Purchase Price of such Unit as is set forth in the following schedule opposite such rental payment date:

<u>Rental Payment Date</u>	<u>Percentage</u>	<u>Rental Payment Date</u>	<u>Percentage</u>
9/30/73	105.2971	3/30/81	66.8527
12/30/73	105.1122	6/30/81	65.4989
3/30/74	104.9272	9/30/81	64.1451
6/30/74	104.9517	12/30/81	62.6702
9/30/74	104.9761	3/30/82	61.1952
12/30/74	104.2246	6/30/82	59.7323
3/30/75	103.4731	9/30/82	58.2693
6/30/75	103.0511	12/30/82	56.6889
9/30/75	102.6290	3/30/83	55.1084
12/30/75	101.9450	6/30/83	53.5383
3/30/76	101.2610	9/30/83	51.9682
6/30/76	100.6547	12/30/83	50.2896
9/30/76	100.0453	3/30/84	48.6110
12/30/76	94.4715	6/30/84	46.9357
3/30/77	93.6931	9/30/84	45.2603
6/30/77	92.9147	12/30/84	43.4854
9/30/77	92.1363	3/30/85	41.7105
12/30/77	91.1408	6/30/85	39.9315
3/30/78	90.1453	9/30/85	38.1525
6/30/78	89.2080	12/30/85	36.3514
9/30/78	88.2706	3/30/86	34.5502
12/30/78	82.4278	6/30/86	32.6671
3/30/79	81.3454	9/30/86	30.7840
6/30/79	80.2630	12/30/86	28.8379
9/30/79	79.1805	3/30/87	26.8918
12/30/79	77.9283	6/30/87	24.9720
3/30/80	76.6761	9/30/87	23.0521
6/30/80	75.4602	12/30/87	21.0703
9/30/80	74.2442	3/30/88	19.0885
12/30/80	68.2065	6/30/88	17.7257
		9/30/88	16.3628
		12/30/88 and thereafter	15.0000

Except as hereinabove in this § 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the

risk of any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

The Lessee will, at all times while this Lease is in effect, at its own expense, cause to be carried and maintained insurance in respect of the Units at the time subject hereto, and public liability insurance in amounts and against risks customarily insured against by railroad companies or similar equipment, and in any event in amounts and against risks comparable to those insured against by the Lessee on equipment owned by it, and the benefits thereof shall be payable as provided in the Security Documents. Any net insurance proceeds as the result of insurance earned by the Lessee received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessee to the Lessor in respect of Casualty Occurrences pursuant to this § 7. If the Lessor shall receive any such net insurance proceeds or condemnation payments after the Lessee shall have made payments pursuant to this § 7 without deduction for such net insurance proceeds or such condemnation payments, the Lessor shall pay such proceeds to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds shall remain the property of the Lessor.

§ 8. *Annual Reports.* § 8 of the Model Lease Provisions is herein incorporated as § 8 hereof.

§ 9. *Disclaimer of Warranties; Compliance with Documents and Rules; Maintenance; and Indemnification.* § 9 of the Model Lease Provisions is herein incorporated as § 9 hereof.

The Lessor and the Lessee represent and warrant to the Vendor, severally and not jointly, that neither the Lessor nor the Lessee nor any other person acting on their behalf has directly or indirectly offered any of the Certificates of Interest or any similar evidence of indebtedness for sale to, or solicited offers to buy any of the same from, or otherwise approached or negotiated with respect thereto with, anyone other than the Investors and not more than four other institutional investors.

§ 10. *Default.* If, during the continuance of this Lease, one or more of the following events (each such event being hereinafter sometimes called an Event of Default) shall occur:

A. default shall be made in payment of any part of the rental provided in § 3 hereof and such default shall continue for five days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Security Documents and such default shall continue for 30 days after written notice from the Lessor to the Lessee specifying the default and demanding that the same be remedied.

D. any proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or under the Security Documents under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extension (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder or under the Security Documents), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease and under the Security Documents shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

E. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Security Documents and this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by

such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(F) any warranty or representation in §17 hereof shall be or become untrue or incorrect;

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after tax losses of Federal and state income tax benefits to which the Lessor would otherwise be entitled under this Lease; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on a basis of a rate of 3.25% per annum, discount, compounded quarterly, from the

any. all be
 or
 or
 able
 roof
 to
 use.
 hall
 een
 and
 the
 ke
 nd
 or
 for
 all
 ch
 tal
 he
 is
 in
 ee
 th
 nt
 of
 or
 s
 e
 h
 a
 e

respective dates upon which rentals would have been payable hereunder had this Lease not been terminated. (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental, and (iii) an amount which, after deduction of all taxes required to be paid by the Lessor in respect of the receipt thereof under the laws of the United States of America or any political subdivision thereof, calculated on the assumption that the Lessor's Federal, state and local taxes computed by reference to net income or excess profits are based on a 48% effective Federal tax rate and the highest effective state and local income tax and/or excess profit tax rates generally applicable to the Lessor, including therein the effect of any applicable surtax, surcharge and/or other tax or charge related thereto, and deducting from any such Federal tax 48% of the amount of any such state and local tax (such rates as so calculated being hereinafter in this Agreement called the Assumed Rates) shall be equal to the following:

(A) an amount equal to any portion of the 7% investment credit with respect to the Purchase Price of the Units as provided in Section 38 and related Sections of the Internal Revenue Code of 1954, as amended (hereinafter called the Investment Credit), lost, not claimed, not available for claim, disallowed or recaptured by or from the Lessor as a result of the breach of one or more of the representations, warranties and covenants made by the Lessee in § 17 or any other provision of the Lease or the sale or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default; plus

(B) such sum as, in the reasonable opinion of the Lessor, will cause the Lessor's net return (taxes being calculated at the Assumed Rates) under this Lease to be equal to the net return (taxes being calculated at the Assumed Rates) that would have been available to the Lessor if the Lessor had been entitled to take a deduction (hereinafter called the Class Life Deduction) in respect of the depreciation of each Unit over an 11-year life down to a net depreciated value equal to 0% of the Purchase Price under regulations to be prescribed by the Secretary of the Treasury or his

1, }

1.

1952 MAY 1
 1952 MAY 1
 1952 MAY 1

delegate under Section 167(m) of the Internal Revenue Code of 1954, as amended, which Class Life Deduction was lost, not claimed, not available for claim, disallowed or recaptured in respect of a Unit as a result of (i) the failure of said Secretary to permit a Class Life Deduction to the extent described above, or (ii) the breach of one or more of the representations, warranties and covenants made by the Lessee in § 17 or any other provision of this Lease, or (iii) the termination of this Lease, the Lessee's loss of the right to use such Unit, or (iv) any action or inaction by the Lessor or (v) the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default; plus

(C) an amount equal to the interest and penalty assessed against the Lessor by the United States based on disallowance in whole or in part for any taxable year of the Investment Credit contemplated in paragraph (A) above or the Class Life Deduction contemplated in paragraph (B) above.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

§ 11. *Return of Units Upon Default.* § 11 of the Model Lease Provisions is herein incorporated as § 11 hereof.

§ 12. *Assignment; Possession and Use.* § 12 of the Model Lease Provisions is herein incorporated as § 12 hereof.

§ 13. *Purchase and Renewal Options.* Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the

Lessee may by written notice delivered to the Lessor not less than six months prior to the end of the original term of this Lease or any extended term hereof, as the case may be, elect (a) to extend the term of this Lease in respect of all, but not fewer than all, of such Units then covered by this Lease, for one additional five-year period commencing on the scheduled expiration of the original term of this Lease at a "Fair Market Rental" payable in 20 quarter-annual payments on March 30, June 30, September 30, and December 30 in each year, commencing three months after the final quarter-annual rental payment for the original term is due and (b) to purchase all, but not fewer than all, the Units covered by this Lease at the end of the original or any extended term of this Lease for a purchase price equal to the "Fair Market Value" of such Units as of the end of such term.

Fair Rental Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or before four months prior to the expiration of the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Rental Value of the Units, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than (i) a lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. If on or before four months prior to the

10-1-1980
10-1-1980
10-1-1980

expiration of the original term of this Lease, in case of an extension thereof, or of the original or the extended term of this Lease, in the case of a purchase of the Units, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Value of the Units, such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term Appraiser shall mean such independent appraiser as the Lessor and the Lessee may mutually agree upon, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by the Lessor, the second by the Lessee and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both Lessor and Lessee. The expenses and fee of the Appraiser shall be borne by the Lessee.

Upon payment of the purchase price, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of all claims, liens, security interests and other encumbrances by or in favor of any person claiming by, through or under the Lessor) for such Units, and such other documents as may be required to release such Units from the terms and scope of this Lease and to transfer title thereto to the Lessee or such assignee or nominee, in such form as may reasonably be requested by the Lessee, all at the Lessee's expense.

§ 14. *Return of Units upon Expiration of Term.* § 14 of the Model Lease Provisions is herein incorporated as § 14 hereof.

§ 15. *Opinion of Counsel.* § 15 of the Model Lease Provisions is herein incorporated as § 15 hereof.

§ 16. *Recording; Expenses.* § 16 of the Model Lease Provisions is herein incorporated as § 16 hereof, except that the reference in the first sentence of the last paragraph thereof to the "Lessee" shall be deemed to be a reference to the "Lessor". The Lessee will pay the reasonable costs and expenses involved in the recording of this Lease.

§ 17. *Federal Income Taxes.* Lessee represents, warrants and agrees that the Lessor, as the owner of the Units, shall be entitled to such deductions, credits and other benefits as are provided by the Internal

RECORDED
INDEXED
JAN 10 1980
FBI - NEW YORK

Revenue Code of 1954, as amended from time to time, and the regulations thereunder (hereinafter called the Code) to an owner of property, including (without limitation) the Investment Credit and the Class Life Deduction (as defined in § 10 of this Lease), with respect to the Units and the Lessor shall be entitled to deductions for any interest payments made pursuant to the Security Documents.

Lessee agrees that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing and that each of such corporations will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent thereof. Lessee agrees to keep and make available for inspection and copying by Lessor such records as will enable Lessor to determine whether it is entitled to the full benefit of the Investment Credit and the Class Life Deduction with respect to the Units.

Lessee represents, warrants and agrees that (i) none of the Units constitutes property the construction, reconstruction or erection of which was begun before April 1, 1971; (ii) at the time Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and will not have been used by any person so as to preclude "the original use of such property" within the meaning of Section 167(c)(2) of the Code from commencing with Lessor; (iii) at all times during the term of this Lease, each Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code; and (iv) at the time Lessor becomes the owner of the Units, and at all times during the term of this Lease, each Unit will constitute property eligible for the Class Life Deduction.

The rental in § 3 has been computed on the assumption that the asset depreciation period of the Units for Federal income tax purposes is 11 years, that the Units may be depreciated down to 0% of the Purchase Price over said 11-year period and that a 7% investment credit will be allowed with respect to the Purchase Price of the Units; in the event that Lessor shall not be permitted to use such period but shall be permitted to use an asset depreciation period of 12 years and elects to do so, the figure of 2.08500% in § 3 shall instead be deemed to be 2.10860% as of the commencement of the term of this Lease, and Lessee will pay to Lessor any difference in the two amounts, together with interest at the rate of 7.90% per annum from the date

of each rental payment to the date of such payment plus interest and penalties, if any, assessed by the United States on any deficiency in Federal income taxes arising in whole or in part from the disallowance of such 11 year asset depreciation period; and in the event that Lessor shall not be permitted to use an asset depreciation period of 12 years, then the rental provided for in § 3 shall be increased to the extent necessary to cause Lessor's net return (taxes being calculated at the Assumed Rates) under this Lease to be equal to the net return (taxes being calculated at the Assumed Rates) that would have been available to the Lessor if it had been allowed to depreciate the Units over an 11-year life.

In the event an investment credit of 7% on the full Purchase Price of each Unit is disallowed in whole or in part by the United States, then, the rental payments provided in § 3 hereof shall be increased to the extent necessary to cause the Lessor's net return (taxes being calculated at the Assumed Rates) under this Lease to be equal to the net return (taxes being calculated at the Assumed Rates) that would have been available to the Lessor if the 7% investment credit had been allowed in full.

§ 18. *Interest on Overdue Rentals.* Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 10% per annum of the overdue rentals for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

§ 19. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, addressed as follows:

(a) if to the Lessor, at c/o First National Bank in St. Louis, 510 Locust Street, St. Louis, Missouri 63101, Attn: Ronald D. Prasse, Vice President.

(b) if to the Lessee, at 210 North Thirteenth Street, St. Louis, Missouri 63103

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 20. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and

6-10-1980
10:00 AM
10:00 AM

any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and of the Lessee.

§ 21. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Although this Lease is dated as of January 10, 1973, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 22. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Missouri, provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

THE FIRST NATIONAL LEASING COMPANY,

by RONALD D. PRASSE
Authorized Agent

MISSOURI PACIFIC RAILROAD COMPANY,

by M. M. HENNELLY
Vice President

[CORPORATE SEAL]

Attest:

G. P. STRELINGER
Assistant Secretary

1-17-73
RECORDED
INDEXED
FEB 14 1973
ATLANTA

STATE OF MISSOURI }
CITY OF ST. LOUIS } ss.:

On this 19th day of January, 1973, before me appeared Ronald D. Prasse, to me personally known, who being by me duly sworn, did say that he is the authorized agent of The First National Leasing Company, a partnership under the laws of the State of Missouri, and that said instrument was signed on behalf of said partnership by authority of said partnership, and said Ronald D. Prasse acknowledged the said instrument to be the free act and deed of said partnership.

IN WITNESS WHEREOF I have affixed my hand and seal in the city and state as aforesaid, on the day and year first above stated.

CATHERINE T. BEERMANN
Notary Public

CATHERINE T. BEERMANN
Notary for the City of St. Louis
and adjoining Counties

[NOTARIAL SEAL]

My Commission Expires March 31, 1975.

STATE OF MISSOURI }
CITY OF ST. LOUIS } ss.:

On this 19th day of January, 1973, before me personally appeared M. M. HENNELLY, to me personally known, who, being by me duly sworn, says that he is a Vice President of MISSOURI PACIFIC RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

R. C. MASON
Notary Public

R. C. MASON
Notary Public, City of St. Louis, Mo.

[NOTARIAL SEAL]

My Commission Expires September 28, 1974.

RECORDED
INDEXED
JAN 24 1973

D.
at
a
nt
p.
ee
ad

4.
vs
at
of
of
3-
d

2000 H.P. Model
U-23-B GE
Locomotives

Schedule A to Lease

Type	Builder's Specifications	Builder's Plant	Quantity	Lessee's Road Numbers (Both Inclusive)	Unit Base Price	Total Base Price	Estimated Time and Place of Delivery
2000 H.P. Model U-23-B GE Locomotives	No. 8090 dated January 3, 1972, as amended by specification No. 8090-3, dated January 3, 1972	La Grange, Illinois	37	MP 923-959	\$251,200	\$9,294,400	Jan. - June, 1973 at McCook, Ill
2250 H.P. Model U-23-B GE Locomotives	No. 3530-A dated April 1971	Eric, Pa.	7	MP668-674	262,331	1,836,317	Jan. 1973 at Eric, Pa.
			44			\$11,130,717	

MODEL LEASE PROVISIONS

U.S. DEPARTMENT OF
COMMERCE
WASHINGTON, D.C.

MODEL LEASE PROVISIONS

§ 2. *Delivery and Acceptance of Units.* The Lessor will cause each Unit to be delivered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Documents. Upon such delivery, the Lessee will cause an inspector of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor a certificate of acceptance and delivery (hereinafter called the Certificate of Delivery), stating that such Unit has been inspected and accepted on behalf of the Lessee on the date of such Certificate of Delivery and is marked in accordance with § 5 hereof, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

§ 5. *Identification Marks.* The Lessee will cause each Unit to be kept numbered with the identifying number set forth in Schedule A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the name of the Vendor followed by the words "Agent, Security Owner" or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the Vendor under the Security Documents. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such name and words shall have been so marked on both sides thereof and will replace promptly any such name and words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Unit except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Documents shall have been filed, recorded and deposited.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Lessee may allow the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

§ 6. *Taxes.* All payments to be made by the Lessee hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal, or foreign taxes (other than any United States federal income tax [and, to the extent that the Lessor receives credit therefor against its United States federal income tax liability, any foreign income tax] payable by the Lessor in consequence of the receipt of payments provided for herein and other than the aggregate of all state or city income taxes or franchise taxes measured by net income based on such receipts, up to the amount of any such taxes which would be payable to the state and city in which the Lessor has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Documents, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; *provided, however*, that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the

Lessor, adversely affect the title, property or rights of the Lessor hereunder or under the Security Documents. If any impositions shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessee shall reimburse the Lessor on presentation of an invoice therefor.

In the event that the Lessor shall become obligated to make any payment to the Builder or the Vendor or otherwise pursuant to Article 6 of the Security Documents not covered by the foregoing paragraph of this §6, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said Article 6.

In the event any reports with respect to impositions are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Vendor in such Units or notify the Lessor and the Vendor of such requirement and make such reports in such manner as shall be satisfactory to the Lessor and the Vendor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any imposition, pursuant to this §6, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

§ 8. Annual Reports. On or before March 31 in each year, commencing with the calendar year which begins after the expiration of 120 days from the date of this Lease, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Documents, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Lease in the case of the first such statement) and such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request and (b) stating that, in the case of all Units repainted or repaired during the period covered by such statement, the numbers and the markings required by §5 hereof and Article 10 of the Security Documents have been preserved or replaced. The Lessor shall have the right by its agents, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

§ 9. Disclaimer of Warranties; Compliance with Laws and Rules, Maintenance; Indemnification. The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose or as to title to the Units or any component thereof, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have, as Vendee, under the provisions of Article 14 of the Security Documents. The Lessee's delivery of a Certificate of Delivery shall be conclusive evidence as between the Lessee and the Lessor that all Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that such laws or rules require any alteration of any Unit, or in the event that any equipment or appliance on any such Unit shall be required to be changed or replaced, or in the event that any additional or other equipment or appliance is required to be installed on any such Unit in order to comply with such laws or rules, the Lessee will make such alterations, changes, replacements and additions at its own expense; *provided, however*, that the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Documents.

3-14-11
3-14-11

RECEIVED
MAY 10 1911
ST. LOUIS

1111

The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit in good order and repair.

Any and all additions to any Unit (except, in the case of any Unit which is a locomotive, communications, signal and automatic control equipment or devices having a similar use which have been added to such Unit by the Lessee, the cost of which is not included in the Purchase Price of such Unit and which are not required for the operation or use of such Unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body), and any and all parts installed on and additions and replacements made to any Unit shall constitute accessions to such Unit and, at the cost and expense of the Lessee, full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Documents) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself.

The Lessee agrees to indemnify, protect and hold harmless the Lessor and the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of the Security Documents or this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in § 16 of this Lease. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee.

§ 11. Return of Units Upon Default. If this Lease shall terminate pursuant to § 10 hereof, the Lessee shall forthwith deliver possession of the

Units to the Lessor. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith place such Units upon such storage tracks of the Lessee as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) transport the same to any place on the lines of railroad operated by the Lessee or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage and transporting of the Units as hereinafore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this § 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

§ 12. *Assignment; Possession and Use.* This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under §§ 6, 7 and 10 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively). Whenever the term Lessor is used in this Lease it shall apply and refer to each such assignee of the Lessor.

U. S. DEPT. OF JUSTICE
DIVISION OF INVESTIGATION
WASHINGTON, D. C.

So long as the Lessee shall not be in default under this Lease or under the Security Documents in its capacity as Guarantor or otherwise, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the Security Documents, but, without the prior written consent of the Lessor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance resulting from claims against the Lessor or the Vendor not related to the ownership of the Units) upon or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, claim, security interest or encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as the Lessee shall not be in default under this Lease or under the Security Documents in its capacity as Guarantor or otherwise, the Lessee shall be entitled to the possession of the Units and to the use of the Units by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all the terms and conditions of this Lease and the Security Documents; *provided, however*, that the Lessee shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States of America. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this § 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Security Documents) into or with which the Lessee shall have

WITNESSED BY
 S. M. M. M.
 S. M. M. M.

become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger or consolidation, be in default under any provision of this Lease.

§ 14. *Return of Units upon Expiration of Term.* As soon as practicable on or after the expiration of the term of this Lease with respect to any Unit, the Lessee will (unless the Unit is sold to the Lessee), at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee as the Lessee may designate, or, in the absence of such designation, as the Lessor may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months and transport the same, at any time within such three-month period, to any reasonable place on the lines of railroad operated by the Lessee, or to any connecting carrier for shipment, all as directed by the Lessor; the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Unit, to inspect the same; *provided, however*, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. If Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which after the expiration of this Lease the Lessor shall have deemed to have suffered a Casualty Occurrence, it may deliver written notice to such effect to the Lessee and the Lessee shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. The Lessor shall execute and deliver to the Lessee a bill of sale or bills of sale transferring to the Lessee, or upon its order, the Lessor's title to and property in any Unit abandoned by it pursuant to the immediately preceding sentence. The Lessee shall have no liability to the Lessor in

UNITED STATES
COURT OF DISTRICT
OF SOUTHERN DISTRICT
NEW YORK

respect of any Unit abandoned by the Lessor after termination of the Lease: *provided, however,* that the foregoing clause shall not in any way relieve the Lessee of its obligations pursuant to § 7 hereof to make payments equal to the Casualty Value of any Unit experiencing a Casualty Occurrence while this Lease is in effect.

§ 15. *Opinion of Counsel.* On each Closing Date (as defined in the Security Documents), the Lessee will deliver to the Lessor two counterparts of the written opinion of counsel for the Lessee, addressed to the Lessor and the Vendor, in scope and substance satisfactory to the Lessor, the Vendor and their respective counsel, to the effect that:

A. the Lessee is a corporation legally incorporated, validly existing and in good standing under the laws of its state of incorporation (specifying the same) with adequate corporate power to enter into the Security Documents and this Lease;

B. the Security Documents and this Lease have been duly authorized, executed and delivered by the Lessee and constitute valid, legal and binding agreements of the Lessee, enforceable in accordance with their respective terms;

C. the Security Documents (and the assignment thereof to the Vendor) and this Lease have been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and such filing and recordation will protect the Vendor's and the Lessor's interests in and to the Units and no filing, recording or deposit (or giving of notice) with any other federal, state or local government is necessary in order to protect the interests of the Vendor or the Lessor in and to the Units;

D. no approval is required from any public regulatory body with respect to the entering into or performance of the Security Document or this Lease;

E. the entering into and performance of the Security Documents or this Lease will not result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Lessee is a party or by which it may be bound; and

U.S. DEPT. OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
APR 10 1964

F. no mortgage, deed of trust, or other lien of any nature whatsoever which now covers or affects, or which may hereafter cover or affect, any property or interests therein of the Lessee, now attaches or hereafter will attach to the Units or in any manner affects or will affect adversely the Vendor's or Lessor's right, title and interest therein *provided, however*, that such liens may attach to the rights of the Lessee hereunder in and to the Units.

§ 16. *Recording; Expenses.* The Lessee will cause this Lease, the Security Documents and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the Security Documents and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, re-register, deposit and redeposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Documents or the assignment thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidences of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security Documents shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

The Lessee will pay the reasonable costs and expenses involved in the preparation and printing of this Lease. The Lessor and the Lessee will each bear the respective fees and disbursements, if any, of their respective counsel.

Exhibit B

37 GP-38-2 2000 horsepower diesel electric locomotives, four axle, engine type 645, with Road Numbers MP7074-7110, inclusive.

[EXHIBIT B TO LEASE]

018 1910 1111
01089 1111
111110

Exhibit B

Union Pacific

IDENTIFICATION OF UNITS

Twenty (20) 2000 H.P. EMD Model GP-38-2 Locomotives

Unit #

MP2074
MP2075
MP2076
MP2077
MP2078
MP2079
MP2080
MP2081
MP2082
MP2083
MP2084
MP2085
MP2086
MP2087
MP2088
MP2089
MP2090
MP2091
MP2092
MP2093

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10/10/01 BY 60322